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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE, Plaintiff and Respondent, v. THOMAS LAMARR PRINCE IV, Defendant and Appellant.	G055790 (Super. Ct. No. 17HF0430) O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Steven D. Bromberg, Judge. Affirmed.

Law Offices of Jerome Bradford and Jerome Bradford for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Michael Pulos and Amanda Lloyd, Deputy Attorneys General, for Plaintiff and Respondent.

* * *

INTRODUCTION

On two occasions in 2017, a marijuana dealer was lured to a Newport Beach resort believing he would be participating in the sale of a large amount of marijuana only to be robbed at gunpoint by defendant Thomas Lamarr Prince IV and his accomplices. Defendant appeals from the judgment of conviction entered after a jury found him guilty of four counts of robbery stemming from those two incidents.

We reject each of defendant's contentions of error and affirm. The trial court was not required to instruct the jury with CALCRIM No. 3500 on unanimity because the four robberies were committed against separate victims and there was no risk the jury failed to unanimously find him guilty based on the same conduct as to each count. The trial court did not err by allowing a detective to offer opinion testimony identifying defendant in the surveillance video taken at the resort. Substantial evidence supported defendant's conviction for robbing Foster Oquin.

FACTS

I.

THE FEBRUARY 18, 2017 ROBBERY OF CHRISTOPHER DAVIS

Christopher Davis was involved in the sale of marijuana. In January 2017, Davis met "Joe" at a garage and the two discussed Davis arranging a potential marijuana transaction; Davis gave Joe his cell phone number. Later, a man who identified himself as "Jonathan" and as a friend of Joe's called Davis and they discussed the possibility of Jonathan purchasing 100 pounds of marijuana. Davis and Jonathan met in person at Davis's house in Santa Monica; Jonathan drove a black Maserati with Calabasas Maserati license plates. Jonathan showed Davis a "brick of cash" that appeared vacuum sealed, which Jonathan pulled out of a red, white, and blue backpack. After Jonathan showed Davis the money, Davis said he "could work on something" to supply the amount of marijuana Jonathan requested.

Davis called his friend Joey Orsie, known as "Aloha Joe," from whom Davis had previously acquired quantities of marijuana. Orsie referred Davis to Orsie's friend Princeton Pilgrim, with whom Davis had also dealt in selling marijuana. Davis called Pilgrim and told him that he had a customer looking for 100 pounds of marijuana and that Davis needed to fulfill that order. Pilgrim got in touch with Steele Burnside and Nick Hernandez and arranged a meeting for Davis to get samples of marijuana.

On February 17, 2017, Davis, Jonathan, and others met at a grocery store parking lot in Newport Beach (the parking lot) for the purpose of testing samples of marijuana; Jonathan was wearing glasses and a beanie with a stripe. Davis got into the grey Range Rover Jonathan was driving; Jonathan drove Davis to a bungalow in the nearby Pelican Hill resort (the resort). Maserati Calabasas license plates, similar to those that appeared on Jonathan's Maserati, appeared on the Range Rover. Burnside, driving his BMW, followed Jonathan and Davis to the bungalow. While inside the bungalow, Jonathan smoked a sample of the marijuana that Burnside brought, agreed it was good, and confirmed he wished to purchase 100 pounds of it for $135,000. They agreed the sale would occur the following day. Burnside drove Davis back to the parking lot; Jonathan remained at the bungalow.

The next day, Jonathan called Davis and asked him when he and others were coming down to Newport Beach. Davis responded, "as soon as possible." By midday, Davis, Hernandez, Steele, Orsie, and Pilgrim had all arrived at the parking lot; Hernandez had brought along 30 pounds of marijuana. Davis called Jonathan to let him know that they had arrived. Jonathan asked how much marijuana they had and Davis told him they had 30 pounds. Jonathan told Davis he wanted 100 pounds. Davis told Jonathan he could not fulfill the order in that amount. Jonathan asked Davis if he could "do 60" and Davis said he would work on it.

About 90 minutes later, Burnside's and Hernandez's contact, described by Davis as "a group of two Asians," arrived with 30 more pounds of marijuana. Jonathan

thereafter joined the group and asked them to drive down the street to the entrance of the resort. Davis and Hernandez got into the Toyota that the two Asian men had arrived in and followed Jonathan in his Range Rover to a particular bungalow. They exited their vehicles and loaded the back of the Range Rover with four or five duffle bags of marijuana. Davis was handed a red, white, and blue backpack full of money and was told they could go inside the bungalow to count the money; Davis, Hernandez, and the two Asian men followed Jonathan into the bungalow.

Once inside, four or five males jumped out from behind the bed, out of the closet, and from behind the table pointing firearms at them and saying "police." They were dressed like police officers; they were clean cut, wore black shirts, and displayed fake badges. Jonathan pulled out a gun as well. After Davis, Hernandez, and the two Asian men complied with instructions to get on the ground, they were frisked. Davis's phone and wallet, containing $200, were taken from him. Hernandez and the two Asian men were also frisked. All four of them stayed on the ground for about 10 minutes before they got up, went outside, and found the Range Rover Jonathan had been driving was gone.

Davis testified that Jonathan had a very noticeable limp. Davis did not identify Jonathan in any lineup presented to him or at trial. He was able to provide the telephone number he used to contact Jonathan that had a 662 prefix.

II.
THE MARCH 21, 2017 ROBBERIES OF VERNON WOODS, FOSTER OQUIN, AND VAZGEN GURGIAN

In March 2017, Vernon Woods met a man he knew as "Rick" in Huntington Beach through an old friend. When Woods first met Rick, Rick drove a Range Rover. A couple of days after meeting Rick, Woods agreed to meet him at a casino in Hawaiian Gardens. Woods saw Rick driving a black Maserati when they met at

the casino. Whenever Woods saw Rick, Rick wore dark glasses and a hat Woods described as a rolled up beanie or knit wool hat.

At some point after meeting Rick, Woods worked to find marijuana suppliers in order to help arrange a sale of 100 pounds of marijuana to Rick. On March 21, 2017, Woods drove to the parking lot (the same one where Davis had met Jonathan on February 18, 2017) where he met his friend Foster Oquin, and Oquin's friend Vazgen Gurgian.[1] As Rick had instructed, Woods called Rick to tell him that they had arrived. Rick arrived at the parking lot driving a gray Range Rover. Woods had not brought any marijuana with him. He did not know some of the people who were present in the parking lot and did not know who brought the marijuana; he, however, was there to help negotiate the deal. He saw bags tossed in Rick's Range Rover.

Rick thereafter announced that they were going to go to his "house." Rick drove Oquin in Rick's car and Woods drove Gurgian in Oquin's car into the resort. Rick backed his car into the driveway of a villa. Although it was 8:30 or 9:00 p.m. and getting dark outside, Rick kept wearing his dark glasses. The group walked into the villa where Woods saw an unopened fire safe; Rick had previously shown Woods a fire safe containing stacks of wrapped money in the Range Rover. Rick grabbed the safe, put it on the counter, and yelled up the stairs. Two men wearing hoods and face coverings came down the stairs holding guns. The men pointed the guns at Woods, Oquin, and Gurgian and told them to "Get down. Get down on the floor."

The gunmen emptied Woods's pockets; they took his phone, watch, wallet and whatever money he had in his pocket. Woods testified that Oquin was not in his line of sight but he saw the men going through Oquin's wallet. Gurgian saw the gunmen frisk Oquin and heard them comment on how broke he was. The gunmen took Gurgian's

[1] Woods had met Rick and a marijuana supplier the previous day at the parking lot.

keys, driver's license, credit cards, cell phone, and $11,000 in cash he had brought to play a poker game.

The gunmen then ordered Woods, Oquin, and Gurgian to get up and walk upstairs. Woods, Oquin, and Gurgian walked upstairs and into a bedroom; the door was closed behind them. Woods jumped out of a window and slid down a tree to escape. Oquin and Gurgian followed him. Once outside, they saw the Range Rover was no longer in the driveway.

III.

THE INVESTIGATION

During the course of the investigation of the robberies, law enforcement personnel obtained surveillance videos taken at the resort on the dates the robberies occurred. Davis provided officers the cell phone number he used to contact the man he knew as Jonathan; that number had a 662 prefix. Woods also provided the cell phone number he used to contact the man he knew as Rick, which similarly had a 662 prefix. Detective Joshua Vincelet of the Newport Beach Police Department was able to obtain a search warrant for Jonathan's phone number obtained from Davis, which resulted in his ability to track the cell phone to a residence in Anaheim (the Anaheim residence). On March 28, 2017, Vincelet began to conduct surveillance of the Anaheim residence and surrounding area. Vincelet noticed a gray Range Rover parked nearby which had attached California license plates. The detective ran the license plate number of the vehicle and found the registered owner of the Range Rover to be Hillary Chavis[2] who lived at the Anaheim residence.

When Vincelet's surveillance resumed early the following morning, he noticed the gray Range Rover was gone. That morning, Vincelet observed defendant come out of the Anaheim residence and walk back and forth from the garage to some

[2] Chavis testified that she is the owner of the Anaheim residence, she and defendant share a five-year-old son, and she has allowed defendant to stay overnight at times.

garbage cans that were placed along the street. He saw Chavis and a young boy leave the Anaheim residence in a Ford Flex and saw Chavis return within 15 minutes and pick up defendant. Vincelet followed Chavis as she drove defendant to "an autobody shop or tow yard" in Anaheim from which defendant later emerged driving the same Range Rover Vincelet had seen parked outside the Anaheim residence the day before. Vincelet thereafter followed defendant as he drove the Range Rover back to the street near the Anaheim residence where it had previously been parked.

As Vincelet worked undercover and continued to surveil the Anaheim residence and the surrounding area, Anaheim police officers in a marked patrol car were called in to pull defendant over. Defendant gave the officers a fake name and told them he did not have identification with him. Vincelet watched as defendant led the officers to the Anaheim residence to locate his identification. Defendant was later taken into custody.

Vincelet obtained a search warrant and searched the Range Rover, in which he found a Calabasas Maserati paper license plate. He also helped search the Anaheim residence with two other officers. Vincelet found title to both the Range Rover and a Maserati in the kitchen area of the house. In the master bedroom closet he found male clothing hanging on hangers, including a red and light-colored plaid long-sleeve shirt. He also found a red, white, and blue backpack on the bed in the master bedroom. The backpack contained currency wrapped in rubber bands and loose bills totaling $16,000. The backpack also contained defendant's California identification cards and several other cards with his name on them, a Sentry brand key for a safe of some kind, two cell phones, a fake police badge, and a concealed weapon permit badge. The backpack emitted the odor of marijuana.

Vincelet called the 662 prefix number that Davis had provided and a phone on the nightstand in the bedroom started ringing. It was one of six cell phones on the night stand.

In the garage of the Anaheim residence, Vincelet found a silver Maserati. A strong marijuana scent emanated from inside the Maserati. Vincelet found a large Ziploc bag in the front seat containing several small rubber bands that looked like the rubber bands used to wrap money found in the backpack. In the trunk, Vincelet found a leather folder with several items, including mail, bearing defendant's name. He also found mason jars, one of which contained 1.2 ounces of marijuana. He found several Ziploc bags within other Ziploc bags that had marijuana residue inside of them and one Ziploc bag that had a set of handcuffs and a handcuff key. He also found empty duffle bags that emitted a strong odor of marijuana.

In a garage cabinet, Vincelet found several empty mason jars of various sizes and he could see some of them had green leaf-like residue inside them that was consistent with having held marijuana; the residue from all the jars combined weighed 1.6 ounces. He also found a Sentry brand personal safe in the garage; he was able to use the key he found in the red, white, and blue backpack to open the safe. The safe contained currency with bank wrappings. The wrappers stated each wrapped set contained $10,000. If the wrappers accurately reported how much money they contained, the safe would have contained $250,000. An actual count of the currency in the safe showed the safe contained a total of $1,600. Vincelet observed that the wrapped sets each contained a $100 bill on each end and $1 bills sandwiched between them. Mislabeling wrapped money is known as "flash money" and is commonly used in narcotics transactions to show a narcotics supplier "Hey, we're good for the money." Vincelet also found a food sealer machine and a scale in the garage.

Detective Jason Prince[3] of the Newport Beach Police Department was assigned as the case investigator for both the February 19 and March 21, 2017 robberies. Detective Prince participated in the second day of surveillance of defendant on March 29,

[3] Given that the defendant and Detective Jason Prince share the same surname, we refer to the latter as Detective Prince for greater clarity.

2017. During the surveillance that day, he observed defendant come out of the Anaheim residence. He also observed the Anaheim police officers stop defendant as he was driving to the Anaheim residence. He watched defendant exit his vehicle at various points and talk to the officers. Detective Prince watched surveillance videos received from the resort for hours before he interacted with defendant and opined at trial that defendant was one of the three men who appeared in the resort's surveillance videos; he described defendant's walk as "very distinct."

After defendant was arrested and read his *Miranda*[4] rights, Detective Prince interviewed defendant in the back seat of the police vehicle. During the interview, defendant admitted the red, white, and blue backpack that was found in the master bedroom of the Anaheim residence was his and said the cash inside it was the money he received when he recently sold a vehicle for $11,000. He explained he had a police-type badge in the backpack because he used it as a prop in movies and rap videos. When asked why he had so many cell phones, he said two were his and a lot of them were just old phones with old phone numbers. He admitted he owned the Range Rover and the Maserati. Defendant initially told Detective Prince he had last been at the resort in January for his grandmother's birthday and also said he has been there hundreds of times. Detective Prince asked defendant about the red plaid shirt found in the closet, and further asked, "You're on TV, you're on video, walking around in your plaid shirt that was in your closet. That was you?" Defendant responded by twice saying, "I'm always at Pelican." He did not deny the plaid shirt was his or that he was the man in the video.

PROCEDURAL HISTORY

Defendant was charged in an amended information with four counts of first degree robbery in violation of Penal Code sections 211 and 212.5, subdivision (a); each

[4] *Miranda v. Arizona* (1966) 384 U.S. 436.

count was allegedly committed against a different victim. The amended information alleged, pursuant to sections 667, subdivisions (d) and (e)(1) and 1170.12, subdivisions (b) and (c)(1), that defendant had been previously convicted of a serious and violent felony and further alleged, pursuant to section 667, subdivision (a)(1), that he had been previously convicted of a serious felony.

Defendant admitted the prior conviction allegations. The jury found defendant guilty on all four counts. The trial court imposed a total prison term of 21 years. Defendant appealed.

DISCUSSION

I.
THE CIRCUMSTANCES OF THE CASE DID NOT DICTATE INSTRUCTING THE JURY WITH CALCRIM NO. 3500 ON UNANIMITY.

Defendant contends the trial court erred by failing to instruct the jury on unanimity pursuant to CALCRIM No. 3500, in violation of his constitutional rights. Although defendant did not request that the trial court instruct the jury with CALCRIM No. 3500, he has not forfeited the issue because "'[e]ven absent a request, the court should give [a unanimity] instruction "where the circumstances of the case so dictate."'" (*People v. Covarrubias* (2016) 1 Cal.5th 838, 877.) CALCRIM No. 3500 states: "The defendant is charged with <insert description of alleged offense> [in Count __] [sometime during the period of ___ to ___]. [¶] The People have presented evidence of more than one act to prove that the defendant committed this offense. You must not find the defendant guilty unless you all agree that the People have proved that the defendant committed at least one of these acts and you all agree on which act (he/she) committed."

"In a criminal case, 'the jury must agree unanimously the defendant is guilty of a *specific* crime. [Citation.] Therefore, cases have long held that when the

evidence suggests more than one discrete crime, either the prosecution must elect among the crimes or the court must require the jury to agree on the same criminal act.' [Citation.] Yet 'where the evidence shows only a single discrete crime but leaves room for disagreement as to exactly how that crime was committed or what the defendant's precise role was, the jury need not unanimously agree on the basis or, as the cases often put it, the "theory" whereby the defendant is guilty.' (*Ibid.*) 'In deciding whether to give the instruction, the trial court must ask whether (1) there is a risk the jury may divide on two discrete crimes and not agree on any particular crime, or (2) the evidence merely presents the possibility the jury may divide, or be uncertain, as to the exact way the defendant is guilty of a single discrete crime. In the first situation, but not the second, it should give the unanimity instruction.' [Citation.] Jury unanimity is not required as a matter of federal due process." (*People v. Covarrubias, supra,* 1 Cal.5th at pp. 877-878.)

Here, the jury was provided verdict forms that identified a different victim for each count. The jury returned the verdict form entitled "Verdict Count 1" which expressly stated it found defendant guilty of committing robbery against "Victim: Christopher Davis." The evidence showed Davis was only robbed once in a bungalow at the resort on February 18, 2017 when Jonathan, along with several other males, pointed guns at Davis and three other people and took Davis's belongings. There was no risk, therefore, the jury would have been divided on two discrete crimes in determining whether to find defendant guilty of robbing Davis.

Similarly, the form entitled "Verdict Count 2" identifies Vernon Woods as the sole victim of that count of robbery, the form entitled "Verdict Count 3," identifies Vazgen Gurgian as the sole victim of that count of robbery, and the form entitled "Verdict Count 4" identifies Foster Oquin as the sole victim of that count of robbery. There was only one incident in which all three men were robbed in a villa at the resort on March 21, 2017. The jury therefore could not have failed to agree on a particular crime with regard to those counts.

Defendant does not argue insufficient evidence supported the finding he was one of the robbers in each of the four counts. That the jury may have been divided on defendant's precise role in committing each of the robberies is of no moment. As discussed *ante*, a unanimity instruction is not required when the evidence merely presents the possibility the jury may be divided or uncertain "as to the exact way the defendant is guilty of a single discrete crime." (*People v. Covarrubias, supra,* 1 Cal.5th at pp. 877-878; see *People v. Wilson* (2008) 44 Cal.4th 758, 801 ["[T]he jury need not decide unanimously whether a defendant was a direct perpetrator or an aider and abettor, so long as it is unanimous that he was one or the other"].) Because the circumstances of the case did not require a unanimity instruction, the trial court did not err by failing to so instruct the jury.

II.

THE TRIAL COURT DID NOT ERR BY ADMITTING DETECTIVE PRINCE'S TESTIMONY IDENTIFYING DEFENDANT IN A SURVEILLANCE VIDEO.

Defendant contends the trial court erred by allowing Detective Prince to identify defendant as a man appearing in the resort's surveillance video tape "without foundational [evidence] of the detective's personal knowledge of the defendant's appearance at or before the time the photo was taken." He argues the admission of that lay opinion testimony denied him his constitutional rights to due process and a fair trial.

At trial, the prosecutor asked Detective Prince about the surveillance videos from the resort and he confirmed that he had viewed the video showing three men coming out of the front door of the resort near the valet area. The prosecutor asked, "Based on having observed the defendant for at least two hours walking, and the manner in which he walked, do you have an opinion as to which of the people in that video is the defendant?" Defendant's trial counsel objected to the question on the ground it lacked foundation and the trial court sustained the objection, informing the prosecutor, "You can take it further if you can lay a better foundation than that."

The prosecutor proceeded to lay foundation for Detective Prince's opinion on defendant's identity in the surveillance video. Detective Prince testified that during his participation in the surveillance of defendant and the Anaheim residence on March 29, 2017, through the time defendant was booked, he observed defendant, in close proximity to him, walking around for 10 to 15 minutes. Detective Prince further testified that before his direct interaction with defendant on March 29, 2017, he had watched the surveillance videos from the resort, which showed the three individuals walking around the resort's lounge and out of the front of the resort, "for hours." Based on that experience, he stated: "I knew the people involved." After eliciting that testimony as further foundation, and without further objection by defendant, the prosecutor questioned Detective Prince as follows:

"Q. And do you have an opinion, based upon your knowledge of the defendant and the way he walks and your close proximity with him, as to which of the individuals in that video is the defendant?

"A. I do.

"Q. And what is that opinion?

"A. My opinion is that the individual depicted in the video wearing the plaid shirt is the defendant, Thomas Prince.

"Q. And what are you using to base your opinion on?

"A. My observations of him walking and my observations of him walking in the videos. It is very distinct.

"Q. Would you describe that he has a distinct walk?

"A. Yes."

Because defendant failed to reassert an objection that Detective Prince's opinion testimony lacked a proper foundation, defendant has forfeited this issue on appeal. (*People v. Jennings* (2010) 50 Cal.4th 616, 654.)[5]

Even if defendant had not forfeited the argument Detective Prince's identification testimony lacked a proper foundation, it lacks merit. In *People v. Leon* (2015) 61 Cal.4th 569, 600 (*Leon*), the defendant claimed the trial court erred by allowing a detective to identify him as the person shown in the surveillance videos of two robberies. During the detective's testimony, the prosecutor played a portion of the surveillance tape showing one of the robberies. (*Ibid.*) As the video played, the prosecutor asked the detective whether he recognized the jacket worn by a person who entered the store. (*Ibid.*) The defendant objected on the ground that any identification by the detective would constitute inadmissible lay opinion. (*Ibid.*) The court ruled the testimony would be permitted subject to the prosecutor laying sufficient foundation that the detective had contact with the defendant. (*Ibid.*)

In that case, the detective testified that he was "'very' familiar" with the defendant's appearance as he first saw him when he was arrested and then saw him nearly 10 times and spent about two hours with him. (*Leon*, *supra*, 61 Cal.4th at p. 600.) The detective was also familiar with the jacket that defendant wore when arrested which, like the jacket in the video, had colored panels on the sleeves and front pockets with silver hasps. (*Ibid.*) In the detective's opinion, the person shown in the surveillance

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[5] Defendant does not argue that reasserting his objection that Detective Prince's lay opinion lacked foundation would have been futile. In his appellate opening brief, for the first time on appeal, defendant argues Detective Prince's testimony should have been excluded under Evidence Code sections 350 and 352. Defendant's argument is forfeited not only because he failed to object to the testimony on this ground in the trial court, but also because defendant has failed to provide meaningful analysis in support of his argument. We do not consider further defendant's argument based on those code sections.

video was the defendant, wearing the same jacket he wore when he was arrested the next day. (*Ibid.*)

The detective also testified about the surveillance video taken at the scene of a second robbery and murder. (*Leon, supra*, 61 Cal.4th at p. 600.) The detective stated the car in the video looked like the car the defendant crashed when fleeing from police in that its body color, wood paneling, luggage rack, and appearance of the front license plate were all similar. (*Ibid.*) The detective testified the jacket and the Raiders baseball cap worn by a person in the video looked similar to the jacket defendant wore and the cap found in his car. (*Id.* at pp. 600-601.)

The California Supreme Court concluded the admission of the detective's identification testimony did not constitute an abuse of discretion. (*Leon, supra*, 61 Cal.4th at p. 600.) The court stated: "A lay witness may offer opinion testimony if it is rationally based on the witness's perception and helpful to a clear understanding of the witness's testimony. [Citation.] '[T]he identity of a person is a proper subject of nonexpert opinion . . . .' [Citations.] [¶] Court of Appeal decisions have long upheld admission of testimony identifying defendants in surveillance footage or photographs. In [*People v.*] *Perry* [(1976) 60 Cal.App.3d 608, 613], the defendant argued an identification had to be based on the officer's perception of a crime. [Citation.] The court disagreed, finding it proper for officers to predicate their opinion on 'contacts with defendant, their awareness of his physical characteristics on the day of the robbery, and their perception of the film taken of the events.' [Citation.] The testimony was also helpful because the defendant had changed his appearance by shaving his mustache before trial. [Citation.] Similarly, the court in [*People v.*]*Mixon* [(1982) 129 Cal.App.3d 118, 130-131] upheld identification of the defendant in a robbery surveillance photograph by officers who had numerous contacts with him and were unequivocal in their identification." (*Id.* at p. 601.)

Here, Detective Prince testified he had participated in the surveillance of defendant on March 29, 2017 and interviewed him following his arrest only about five and half weeks after the first robbery occurred on February 18, 2017. During the surveillance, Detective Prince had the opportunity to observe defendant's appearance and, in particular, his unusual walking gait. Detective Prince had studied the resort's surveillance tapes and, during his interview of defendant, asked defendant to confirm whether the subject in the tapes was defendant; defendant tacitly admitted the correctness of Detective Prince's identification of him in the surveillance video by simply stating, "I'm always at Pelican."

Here, in his appellate opening brief, like the defendant in *Leon*, defendant argues *People v. Perry, supra,* 60 Cal.App.3d 608 and *People v. Mixon, supra,* 129 Cal.App.3d 118 do not support the admission of Detective Prince's identification testimony because Detective Prince did not have contact with defendant *before* the robberies. (See *Leon, supra,* 61 Cal.4th at p. 601.) The Supreme Court rejected the same argument in *Leon* stating: "This is a distinction without a difference. It is undisputed [the detective] was familiar with defendant's appearance around the time of the crimes. Their contact began when defendant was arrested, one day after the Valley Market robbery. Questions about the extent of [the detective's] familiarity with defendant's appearance went to the weight, not the admissibility, of his testimony. [Citation.] Other eyewitness testimony indicated defendant had changed his appearance after the crimes. Witnesses who identified defendant in lineups held many months after the crimes noted that defendant was heavier, had shorter hair, and no longer wore a mustache. Moreover, because the surveillance video was played for the jury, jurors could make up their own minds about whether the person shown was defendant. Because [the detective's] testimony was based on his relevant personal knowledge and aided the jury, the court did not abuse its discretion by admitting it." (*Ibid.*)

In this case, the surveillance video was also played for the jury, giving the jurors the opportunity to make up their own minds about whether the person Detective Prince identified as defendant was in fact defendant. We find no abuse of discretion.

III.
SUFFICIENT EVIDENCE SUPPORTED DEFENDANT'S CONVICTION FOR THE ROBBERY OF OQUIN.

Defendant argues his conviction for robbing Oquin should be reversed because insufficient evidence supported the finding that he forcefully took anything from Oquin. "When considering a challenge to the sufficiency of the evidence to support a conviction, we review the entire record in the light most favorable to the judgment to determine whether it contains substantial evidence—that is, evidence that is reasonable, credible, and of solid value—from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citation.] . . . We presume in support of the judgment the existence of every fact the trier of fact reasonably could infer from the evidence. [Citation.] If the circumstances reasonably justify the trier of fact's findings, reversal of the judgment is not warranted simply because the circumstances might also reasonably be reconciled with a contrary finding. [Citation.] A reviewing court neither reweighs evidence nor reevaluates a witness's credibility." (*People v. Lindberg* (2008) 45 Cal.4th 1, 27.)

Penal Code section 211 provides: "Robbery is the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear." Here, substantial evidence showed that after Woods, Oquin, and Gurgian entered the villa with Rick, Rick called upstairs and two men with their faces covered and guns drawn came rushing down the stairs. The two men, in concert with Rick, ordered Woods, Oquin, and Gurgian down to the floor. Each of the men was frisked. Woods testified that his wallet, watch, and

whatever money he had in his pocket were taken from him. Gurgian testified that his keys, license, credit cards, cell phone, and $11,000 in cash were taken from him.

Woods testified he could not see Oquin on the floor from where he was lying and therefore did not see anything taken from him. He also testified he saw Gurgian's wallet taken from him. But Gurgian testified he did not have a wallet on him. The jury, therefore, could have reasonably inferred that the wallet Woods thought had been taken from Gurgian had actually been taken from Oquin. In any event, Woods later testified during cross-examination that he saw the gunmen going through Oquin's wallet. That the gunmen were going through Oquin's wallet is consistent with their comments about how broke Oquin was, as reported by Gurgian. As substantial evidence showed Oquin's wallet was taken from him after he was ordered to the ground at gunpoint, substantial evidence supported defendant's conviction for robbing Oquin. It was not necessary for Oquin himself to testify at trial that his wallet had been taken from him.

DISPOSITION

The judgment is affirmed.

FYBEL, J.

WE CONCUR:

MOORE, ACTING P. J.

GOETHALS, J.